

FILED

FEB 15 2012

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CITIZENS FOR RESPONSIBILITY AND
ETHICS IN WASHINGTON
1400 Eye Street, N.W., Suite 450
Washington, D.C. 20005

Plaintiff,

v.

U.S. DEPARTMENT OF THE TREASURY
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Defendant.

Case: 1:12-cv-00251
Assigned To : Huvelle, Ellen S.
Assign. Date : 2/15/2012
Description: FOIA/Privacy Act

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

1. This is an action under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as amended, and the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, for injunctive, declaratory, and other appropriate relief. Plaintiff Citizens for Responsibility and Ethics in Washington (CREW) seeks the expedited release of records provided to defendant Internal Revenue Service (IRS), a component of the U.S. Department of the Treasury (Treasury), by the House Ethics Committee (then known as the House Committee on Standards of Official Conduct) concerning the committee's investigation of the use by then-House Speaker Newt Gingrich of charitable tax-exempt organizations to underwrite political activities and his false statements to Congress. Because the requested records involve a matter of substantial public interest, and there is an urgency to inform the public about the investigation of Mr. Gingrich, currently a candidate for president of the United States, plaintiff is statutorily entitled to the expedited disclosure of the records it seeks. Notwithstanding that entitlement, defendant has

improperly withheld the requested records.

JURISDICTION AND VENUE

2. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B). This Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. §§ 2201(a) and 2202. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B).

PARTIES

3. Plaintiff CREW is a nonprofit, non-partisan corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the right of citizens to be informed about the activities of government officials and agencies and to ensuring the integrity of government officials and agencies. CREW seeks to empower citizens to have an influential voice in government decisions and in the governmental decision-making process through the dissemination of information about public officials, federal agencies and entities, and their actions. To advance its mission, CREW uses a combination of research, litigation, and advocacy. As part of its research, CREW uses government records made available to it under the FOIA.

4. Defendant Treasury is an agency within the meaning of 5 U.S.C. § 552(f) and 5 U.S.C. § 702. Treasury and its component the IRS have possession and control of the requested records and are responsible for fulfilling plaintiff's FOIA request.

PLAINTIFF'S FOIA REQUEST AND REQUEST FOR EXPEDITED PROCESSING

5. By letter dated January 25, 2012, and delivered by facsimile and first-class mail to the IRS, a component of defendant Treasury, plaintiff requested under the FOIA copies of all

records provided to the IRS between 1996 and 1997 by the House Ethics Committee, then known as the House Committee on Standards of Official Conduct, relating to the committee's investigation of the use by then-House Speaker Newt Gingrich of charitable tax-exempt organizations to underwrite political activities and Mr. Gingrich's false statements to the committee. CREW also requested records reflecting how the IRS responded to the evidence provided it by the House Ethics Committee.

6. The IRS received plaintiff's FOIA request described in ¶ 5 by facsimile on January 25, 2012.

7. In its January 25, 2012 letter to the IRS, plaintiff also requested expedited processing of its FOIA request. Plaintiff's request for expedition conformed with the requirements for such requests set forth in defendant Treasury's regulations, 26 C.F.R. § 601.702(6).

8. By separate letter dated January 25, 2012, and sent by facsimile to the Director, Communications Division, Office of Media Relations of the IRS, CREW requested expedition pursuant to Treasury regulations, 26 C.F.R. § 601.702(6)(C)(iii). CREW explained expedition is justified by the urgency to inform the public about the activities of a presidential candidate that reflect on his suitability for office. CREW is engaged primarily in the dissemination of information it gathers from a variety of sources and qualifies as a representative of the news media under the FOIA. The requested records will shed light on questions raised by the media and other presidential contenders about Mr. Gingrich's past actions and their legal and ethical implications. As Treasury regulations require, CREW certified the basis for its request for expedition is true and correct to the best of its knowledge and belief.

9. The IRS's Communications Division Office of Media Relations received CREW's letter described in ¶ 8 on January 25, 2012.

TREASURY'S FAILURE TO RESPOND TO PLAINTIFF'S REQUEST FOR EXPEDITED PROCESSING OR TO THE UNDERLYING FOIA REQUEST

10. To date, defendant Treasury and its component the IRS have not responded to plaintiff's request for expedited processing, notwithstanding the statutory requirement and the requirement of Treasury's own FOIA regulations of a response within 10 days.

11. Plaintiff has exhausted the applicable administrative remedies.

12. Plaintiff is entitled to expedited processing of its FOIA request under the standards contained in the FOIA and Treasury's regulations implementing the FOIA.

13. Defendant Treasury and its component the IRS have wrongfully withheld the requested records from plaintiff.

CAUSES OF ACTION

First Cause Of Action

Violation Of The Freedom Of Information Act For Failure To Timely Respond To Request For Expedited Processing

14. Plaintiff realleges and incorporates by reference all preceding paragraphs.

15. The failure of defendant Treasury and its component the IRS to timely respond to plaintiff's request for expedited processing violates the FOIA, 5 U.S.C. § 552(a)(6)(E)(ii), and defendant Treasury's own regulations, 26 C.F.R. § 601.702(6).

Second Cause Of Action

Violation Of The Freedom Of Information Act For Wrongful Withholding Of Agency Records

16. Plaintiff realleges and incorporates by reference all preceding paragraphs.

17. Defendant Treasury and its component the IRS have wrongfully withheld agency records requested by plaintiff by failing to comply with the statutory time limit for the processing of expedited FOIA requests.

PRAYER FOR RELIEF

WHEREFORE, plaintiff respectfully requests that this Court:

(1) Order defendant Treasury and its component the IRS to complete the processing of plaintiff's FOIA request submitted to the IRS on January 25, 2012, immediately;

(2) Issue a declaration that plaintiff is entitled to expedited processing of its FOIA request submitted to the IRS on January 25, 2012;

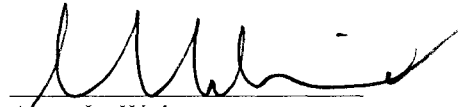
(3) Provide for expeditious proceedings in this action;

(4) Retain jurisdiction of this action to ensure the processing of plaintiff's FOIA request is expedited and no agency records are wrongfully withheld;

(5) Award plaintiff its reasonable attorneys' fees and litigation costs in this action, pursuant to 5 U.S.C. § 552(a)(4)(E); and

(6) Grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,



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Dated: February 15, 2012